

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RICHARD L. SHELTON,
Plaintiff,

-against-

Hon. Thomas P. Griesa

10-CIV-4218 (TPG)

BURGIS L. SETHNA, Individually, and as an
Officer of Bank Card New York and BISON
COMMERCIAL LEASING CORP., BANK CARD
NEW YORK, and BISON COMMERCIAL
LEASING CORP.,
Defendants.

**AFFIRMATION IN SUPPORT OF MOTION TO WITHDRAW AS COUNSEL AND
STAY PROCEEDINGS**

ANTHONY J. LoPRESTI, ESQ., an attorney duly admitted to practice law in the State of New York, hereby affirms the following statements to be true under the penalties of perjury:

1. I am the attorney for the defendants, Burgis L. Sethna, Bison Commercial Leasing Corp., Bank Card New York and Bison Commercial Leasing Corp., in the above captioned action and am familiar with the facts and circumstances of this case as they are maintained in my office file.

2. This affirmation is made in support of motion for leave to withdraw as counsel for defendant the instant application which seeks an Order of this Court: 1) Permitting defendants, Burgis L. Sethna, Bison Commercial Leasing Corp., Bank Card New York and Bison Commercial Leasing Corp., attorney, ANTHONY J. LoPRESTI, ESQ to withdraw as counsel due failure to cooperate, and failure to produce documents required pursuant to exchange

of discovery under the Federal Rules which have led to irreconcilable differences in the management of the instant action between defendants, Burgis L. Sethna, Bison Commercial Leasing Corp., Bank Card New York and Bison Commercial Leasing Corp., and his attorney and to the non-cooperation of the defendants, Burgis L. Sethna, Bison Commercial Leasing Corp., Bank Card New York and Bison Commercial Leasing Corp. pursuant to General Civil Rule 1.4 of the Rules of the United States District Court for the Southern and Eastern Districts of New York. 2) Declaring that ANTHONY J. LoPRESTI, ESQ., has no further responsibility in this action and allowing the defendant the opportunity to take such steps as he may deem necessary to protect his rights in this matter; 3) Staying all present and future proceedings in this matter for a period of thirty (30) days following the written decision of this court on this application; 4) and for such other and further relief as this Court may deem just and proper; and it is further;

3. This action emerges from a fraud and breach of contract action commenced by plaintiff RICHARD L SHELTON against defendants Burgis L. Sethna, Bison Commercial Leasing Corp., Bank Card New York and Bison Commercial Leasing Corp. on May 25, 2010 under Civil Action No.: 10-CV-4218 (TPG).

4. That on or about June 17, 2010, defendants, Burgis L. Sethna, Bison Commercial Leasing Corp., Bank Card New York and Bison Commercial Leasing Corp., were purportedly served with the Summons with Notice.

5. That defendant was retained on July 1, 2010 a copy of the retainer agreement is annexed hereto as **EXHIBIT "A"**

6. That on or about May 25, 2010, plaintiff, RICHARD L SHELTON, through his attorney Evan S. Rothfarb, filed a verified complaint in the United States District Court for the

Southern District of New York, a copy of the verified complaint is annexed hereto as **EXHIBIT “B”**

7. The Defendants are in no way being prejudiced by the instant motion to withdraw as attorney in this matter as movant has preserved the defendants, Burgis L. Sethna, Bison Commercial Leasing Corp., Bank Card New York and Bison Commercial Leasing Corp. rights.

8. This office is seeking to be relieved as counsel as certain requests were made to defendant without any response, including but not limited providing documents required for exchange of discovery which have been requested and promised on several occasions.

9. The defendant has failed to properly aid in the prosecution of this action currently pending before this court and counsel is not able to proceed. Additionally, defendant has scheduled and canceled multiple office conferences and failed to provide documents despite repeated requests.

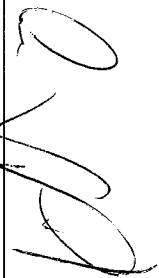
10. Additionally, it is apparent that certain differences have arisen between defendant and counsel making it apparent that I can no longer communicate effectively with the defendant. Without my knowledge the defendant has contacted the plaintiff with talks of settlement between plaintiff and myself which is against ethical obligations and a complete fabrication.

11. This office is seeking to be relieved as counsel in this action as the defendant has failed to maintained promises to produce documents and attend office conferences with this law office regarding the pending action as well as my being relieved due to our irreconcilable differences which have become apparent.

12. No application for this relief has been previously requested.

WHEREFORE, the law firm of ANTHONY J. LoPRESTI, ESQ. requests that this Court issue and Order: 1) Permitting defendants, Burgis L. Sethna, Bison Commercial Leasing Corp., Bank Card New York and Bison Commercial Leasing Corp., attorney, ANTHONY J. LoPRESTI, ESQ to withdraw as counsel due failure to cooperate, and failure to produce documents required pursuant to exchange of discovery under the Federal Rules which have led to irreconcilable differences in the management of the instant action between defendants, Burgis L. Sethna, Bison Commercial Leasing Corp., Bank Card New York and Bison Commercial Leasing Corp., and his attorney and to the non-cooperation of the defendants, Burgis L. Sethna, Bison Commercial Leasing Corp., Bank Card New York and Bison Commercial Leasing Corp.; pursuant to General Civil Rule 1.4 of the Rules of the United States District Court for the Southern and Eastern Districts of New York. 2) Declaring that ANTHONY J. LoPRESTI, ESQ., has no further responsibility in this action and allowing the plaintiff the opportunity to take such steps as he may deem necessary to protect his rights in this matter; 3) Staying all present and future proceedings in this matter for a period of thirty (30) days following the written decision of this court on this application; 4) and for such other and further relief as this Court may deem just and proper; and it is further;

Dated: Garden City, New York
February 7, 2011



ANTHONY J. LoPRESTI, ESQ.